



AN ACT BANNING THE SALE OF PHOSPHORUS-CONTAINING HOUSEHOLD CLEANING PRODUCTS IN CERTAIN COUNTIES FOR WATER QUALITY REASONS; PROVIDING FOR ENFORCEMENT; AMENDING SECTION 75-7-411, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 5] may be cited as the "Phosphorus Ban Act".

Section 2. Findings -- purpose. (1) The legislature finds that:

- (a) high levels of phosphorus in water bodies results in heavy growths of algae;
 - (b) excessive algae growth degrades aquatic habitats, decreases diversity in aquatic invertebrate communities, and places stress on native fish populations;
 - (c) municipal wastewater treatment plants and individual septic systems are sources of phosphorus, an ingredient in many household cleaning products; and
 - (d) Montana has adopted numeric water quality standards for phosphorus.
- (2) Consistent with the policy established in 75-5-101 to conserve water by protecting, maintaining, and improving the quality and potability of water for public water supplies, wildlife, fish and aquatic life, agriculture, industry, recreation, and other beneficial uses, the purpose of [sections 1 through 5] is to limit the introduction of phosphorus into water bodies from municipal point source discharges or the cumulative effect of individual septic system discharges.

Section 3. Definitions. As used in [sections 1 through 5], the following definitions apply:

- (1) "Commercial establishment" means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity, including but not limited to laundries, hospitals, hotels, motels, and food or restaurant establishments.
- (2) (a) "Household cleaning product" means any product, including but not limited to soaps and

detergents, used for domestic cleaning purposes, which include but are not limited to the cleaning of fabrics, dishes, food utensils, and household premises.

(b) The term does not mean food, drugs, cosmetics, or personal care items such as toothpaste, shampoo, or hand soap.

(3) "Phosphorus" means the element phosphorus as indicated in the periodic table of elements.

(4) "Trace quantity" means an incidental amount of phosphorus that is not part of a household cleaning product formulation, that is present only as a consequence of manufacturing, and that does not exceed 0.5% of the content of the product by weight expressed as the element phosphorus.

Section 4. Applicability to counties -- notification. (1) The provisions of [section 5] apply to counties where one or more surface water bodies exceed the numeric algal biomass or total phosphorus standards adopted pursuant to 75-5-301.

(2) The department shall notify counties that meet the provisions of subsection (1) that they are subject to the provisions of [section 5].

(3) The governing body of a county that does not meet the provisions of subsection (1) may adopt an ordinance pursuant to Title 75, chapter 7, part 4.

Section 5. Prohibitions and exceptions. (1) In counties that meet the requirements of [section 4], a household cleaning product may not be distributed, sold, offered, or exposed for sale if it contains phosphorus in concentrations in excess of a trace quantity.

(2) The following cleaning agents and other products containing phosphorus are exempt from the provisions of this section:

- (a) those used in food or beverage processing;
- (b) those used by health care services and facilities;
- (c) those used by institutional or commercial establishments;
- (d) those used for industrial processes; and
- (e) those used for agricultural operations.

Section 6. Section 75-7-411, MCA, is amended to read:

"75-7-411. County regulation of sale and distribution of certain phosphorus compounds. (1) The governing body of a county may adopt, through the procedures of 7-5-103 through 7-5-107, an ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes. The governing body may rescind, modify, or repeal the ordinance at any time by use of the same procedures.

(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may be adopted only if:

(a) the county has a natural lake, whether or not it is fitted with a dam, for which the department of environmental quality or the governing body of the county has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting factor; and

(b) other efforts are being undertaken in the county to reduce the amount of phosphorus entering surface waters.

(3) Any ordinance adopted by the governing body of a county must contain standards designated by the model rule adopted by the department of environmental quality under 75-7-401 and in effect at the time of the adoption of the county ordinance.

(4) Any ordinance adopted by the governing body of a county must be enforced by the county.

(5) The provisions of this part do not apply to counties where the sale of phosphorus-containing household cleaning products is banned pursuant to [sections 4 and 5]."

Section 7. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [sections 1 through 5].

Section 8. Effective date. [This act] is effective July 1, 2010.

- END -

I hereby certify that the within bill,
SB 0200, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2009.

Speaker of the House

Signed this _____ day
of _____, 2009.

SENATE BILL NO. 200
INTRODUCED BY ERICKSON, HANDS

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